



HOUSE OF REPRESENTATIVES

HB 2533

charter aircraft; tax exemption

Prime Sponsor: Representative Shope, LD 8

DP Committee on Rural and Economic Development

DP Caucus and COW

X Transmitted to the Governor

OVERVIEW

HB 2533 exempts specified sales of aircraft and aircraft equipment from Transaction Privilege Tax (TPT) and use tax.

PROVISIONS

1. Exempts aircrafts and aircraft equipment from TPT and use tax if sold, leased or transferred to a person:
 - a. exempted by federal law from obtaining a federal certificate of public convenience and necessity;
 - b. that is certificated or licensed to use the aircraft or equipment to transport persons in intrastate, interstate or foreign commerce;
 - c. operating an aircraft to transport people for compensation; or
 - d. that leases or transfers operational control to other persons described above.
2. Requires the Department of Revenue (DOR) to prescribe a tax exemption certificate for use in the sale of an aircraft.
 - a. Requires the seller of an aircraft to provide this certificate and confirmation of the transfer of operational control, immediately after the sale of an aircraft, to DOR.
3. Specifies that if operational control is not transferred for at least 50% of the aircraft's flight hours during the recapture period, the owner is liable for all taxes that would have otherwise been charged, in addition to interest and penalties.
4. Stipulates that the *recapture period* is from the date of transfer of operational control until the date the aircraft is fully depreciated or five years after the transfer date.
5. Provides that *operational control of the aircraft* is as specified as in the Federal Aviation Administration Operations Specification A008 or its successor.
6. Specifies that if the aircraft is sold during the recapture period, the seller is not liable for taxes unless operational control of the aircraft had not been for at least 50% of the aircrafts flight hours at the time of sale.
7. Clarifies that corporations not incorporated in this state that will not use the property other than to relocate are eligible for the exemptions granted by this Act.
8. Requires all TPT and use tax refund claims to be filed with the Department of Revenue (DOR) by December 31, 2016.
9. Caps the aggregate amount of refunds that may be claimed at \$1,000.

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- a. Specifies that if that amount exceeds \$1,000, DOR is required to reduce each claim proportionately so that the total refund amount equals \$1,000.
- 10. Contains a nonseverability clause.
- 11. Contains a retroactive effective date of June 1, 1998 for refunds.
- 12. Becomes effective on July 1, 2017.
- 13. Makes technical and conforming changes.

CURRENT LAW

A.R.S. §§ 42-5061 and 42-5159 establish TPT and use tax exemptions for aircraft, navigational and communication instruments when sold to:

- a) a person holding a federal certificate of public convenience and necessity, a supplemental air carrier certificate or a foreign air certificate;
- b) any foreign government; or
- c) non-residents of this state that will not use the property in this state.

ADDITIONAL INFORMATION

TPT is imposed on a vendor for the privilege of conducting business in Arizona. Under this tax, the seller is responsible for remitting to the state the entire amount of tax due based on the gross proceeds or gross income of the business. While the tax is commonly passed on to the consumer at the point of sale, it is ultimately the seller's responsibility to remit the tax.

Use tax is assessed on items purchased in other states and brought into Arizona for storage, use or consumption and for which no tax or a tax at a lesser rate has been paid in another state. Use tax is imposed on all transactions in which TPT was not.